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MAILED

JUN 30 2005

In re Application of
Charles F. Neugebauer
Application No. 09/536,880
Filed: March 27, 2000
For: **CONTEXT SENSITIVE SCALING
DEVICE AND METHOD**

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

DECISION ON PETITION

This is a decision on the Petition to Withdraw the Holding of Abandonment filed February 14, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

This application became abandoned for failure to timely file an appeal brief in response to the Notice of Appeal filed March 1, 2004. A Notice of Abandonment was mailed on December 10, 2004.

Petitioner alleges to have timely filed a proper response on August 9, 2004. In support, petitioner has provided as evidence, copies of the appeal brief (in triplicate) and a copy of a petition for three month extension of time each of which included a certificate of mailing signed by applicant's representative. In addition, Petitioner also provides a transmittal letter and a declaration by applicant's representative, attesting to the timely mailing of the appeal brief.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

- (1) Correspondence will be considered as being timely filed if:
 - (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
 - (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
 - (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
 - (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

A review of the file record does not reveal the original appeal brief submission. However, petitioner has complied with the requirements set forth in 37 C.F.R. § 1.8(a) above.

Accordingly, the petition is **GRANTED**.

The holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for entry of the appeal brief. Thereafter, the application will be forwarded to the examiner for appropriate action in due course.



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